

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

HOWARD INDUSTRIES, INC.,

Plaintiff,

v.

**ACE AMERICAN INSURANCE
COMPANY, et al.,**

Defendants.

Case No. 2:13-cv-0677

JUDGE GREGORY L. FROST

Magistrate Judge E.A. Preston Deavers

ORDER

Before the Court is Plaintiff Howard Industries, Inc.'s "Notice of Voluntary Dismissal" without prejudice as to Defendants Clifford W. Baseler and Hoovler Financial Insurance Services Agency, Inc. ("Hoovler"). Though Plaintiff's notice purports to invoke Fed. R. Civ. P. 41(a)(1), this rule is not the correct procedural vehicle by which to dismiss anything less than the entire action. *See Letherer v. Alger Group, L.L.C.*, 328 F.3d 262, 265-66 (6th Cir. 2003), *recognized as overruled on other grounds in Blackburn v. Oaktree Capital Mgmt., LLC*, 511 F.3d 633, 636 (6th Cir. 2008); *see also Coleman v. Ohio State Univ. Med. Ctr.*, No. 2:11-cv-49, 2011 U.S. Dist. LEXIS 83813, at *6 (S.D. Ohio Aug. 1, 2011); *Terry v. City of Columbus*, No. 2:06-cv-720, 2008 U.S. Dist. LEXIS 52519, at *10 n.1 (S.D. Ohio July 1, 2008); *Rivers v. Bowers*, No. 2:06-cv-712, 2008 U.S. Dist. LEXIS 39558, at *26 (S.D. Ohio May 15, 2008). Simply put, parties cannot use Fed. R. Civ. P. 41(a) to dismiss fewer than *all claims against all Defendants* in the action. The proper vehicle to dismiss fewer than all Defendants is through either a motion to amend the complaint under Fed. R. Civ. P. 15 or a motion to drop parties under Fed. R. Civ. P. 21. *See Letherer* at 265-66.

The Court recognizes, however, that the goal of Plaintiff's notice is to dismiss Defendants Baseler and Hoovler from this action, without prejudice. The Court therefore construes the notice of voluntary dismissal as a motion for dismissal of Defendants Baseler and Hoovler under Fed. R. Civ. P. 21. So construed, the Court **GRANTS** the motion. Plaintiff's claims against Defendants Baseler and Hoovler are **DISMISSED WITHOUT PREJUDICE**. Defendants Baseler and Hoovler are hereby terminated as parties to this action.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE